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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANGEL FRALEY; PAUL WANG; SUSAN
MAINZER; JAMES H. DUVAL, a minor,
by and through JAMES DUVAL, as
Guardian ad Litem; and W. T., a minor, by
and through RUSSELL TAIT, as Guardian
ad Litem; individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC., a corporation; and
DOES 1-100,

Defendants.

Case No. CV 11-01726 RS

**DECLARATION OF KEVIN M.
OSBORNE IN SUPPORT OF
MOTION FOR FINAL APPROVAL
OF CLASS ACTION
SETTLEMENT**

Date: June 28, 2013

Time: 10:30 a.m.

Courtroom: 3

Judge: Hon. Richard Seeborg

Trial Date: None set

1 I, Kevin M. Osborne, hereby state and declare:

2 1. I am an attorney licensed to practice before all the federal and state courts located in
3 the State of California and I am admitted to practice before this Court. I am an
4 Associate with The Arns Law Firm, one of the attorneys for Plaintiffs herein. I have
5 personal knowledge of the facts stated in this declaration, and if called upon to
6 testify, could and would competently testify thereto. I make this Declaration in
7 support of Plaintiffs' Motion for Final Approval of Class Action Settlement.
8

9 2. Attached as Exhibit 1 both here and to the Plaintiffs' Response to Objections to
10 Motion for Final Approval of Settlement and Fee Application is a true and correct
11 copy of a table of objections to the settlement compiled by Garden City Group, the
12 settlement administrator in this case. The table indicates whether each objection is
13 valid or invalid. Where an objection is deemed invalid, Garden City Group has
14 identified the defect or defects with that objection.
15

16 3. Attached as Exhibit 2 both here and to the Plaintiffs' Response to Objections to
17 Motion for Final Approval of Settlement and Fee Application is true and correct
18 copy of an audit of the Garden City Group table mentioned in ¶ 2, above, performed
19 by the Arns Law Firm. Of note, this audit identified three objections that Garden
20 City Group deemed invalid that may in fact meet the procedural requirements to
21 make objections. Namely, these are objections number 43, 98, and 102.
22

23 4. Attached as Exhibit 3 both here and to the Plaintiffs' Response to Objections to
24 Motion for Final Approval of Settlement and Fee Application is a true and correct
25 copy of a table prepared by the Arns Law Firm indicating the form of and issued
26 raised by each objection. The table is organized according to Garden City Group's
27
28

number designation and valid/invalid classification.

5. Attached as Exhibit 4 both here and to the Plaintiffs' Response to Objections to Motion for Final Approval of Settlement and Fee Application is a table prepared by The Arns Law Firm indicating the various issues raised in all the Objectors. The table identifies all the Objectors who raised each issue by the Garden City Group number designation.

6. Attached as Exhibit 5 both here and to the Plaintiffs' Response to Objections to Motion for Final Approval of Settlement and Fee Application is a true and correct copy of Kim-Mai Cutler, *Facebook's net income and revenues: \$1 billion on \$3.71 billion in 2011*, Feb 1, 2012, INSIDE FACEBOOK (Feb. 1, 2012), <http://www.insidefacebook.com/2012/02/01/facebooks-net-income-and-revenues-1-billion-on-3-71-billion-in-2011/>.

7. Attached as Exhibit 6 both here and to the Plaintiffs' Response to Objections to Motion for Final Approval of Settlement and Fee Application is a true and correct copy of the Transcript of Proceedings, *Arthur et al. v. Sallie Mae, Inc.*, 2012 WL 4076119 (W.D. Wash. Sept. 17, 2012) (No. 10-198), discussing the denial of Objector Darrell Palmer's pro hac vice application. The denial was based on false statements on Palmer's pro hac vice application relating to a felony conviction in Colorado in the 1990's and misleading statements made to the court in filings.

8. Attached as Exhibit 7 both here and to the Plaintiffs' Response to Objections to Motion for Final Approval of Settlement and Fee Application is a true and correct copy of Appendix A to the Indirect-Purchaser Plaintiffs' and Settling States' Joint Response to Objections to Combined Class, *Parens Patriae*, and Government Entity

Settlements with AUO, LG Display, and Toshiba Defendants, In re TFT-LCD (Flat Panel) Antitrust Litigation, MDL No. 1827 (N.D. Cal. Nov. 15, 2012), ECF No. 7162. The Appendix identifies examples of cases in which Darrell Palmer has filed objections and dismissed, abandoned, or withdrawn the objection or without attaining settlement changes or additional benefits for the class.

9. Attached as Exhibit 8 both here and to the Plaintiffs' Response to Objections to Motion for Final Approval of Settlement and Fee Application is a true and correct copy of Plaintiffs' Motion for Reconsideration, E.K.D. v. Facebook, Inc., No. 11-461-GPM (S.D. Ill. Mar. 3, 2012), ECF No. 96. The plaintiffs' Motion claims that court's ruling can be read as finding that the Facebook Statement of Rights and Responsibilities may be ratified and binding upon the minor plaintiffs. This finding, the Motion states, could be "ruinous" to the plaintiffs' claims. *Id.*, at 1.

10. Attached as Exhibit 9 both here and to the Plaintiffs' Response to Objections to Motion for Final Approval of Settlement and Fee Application is a true and correct copy of the "Laffey Matrix – 2003-2013" obtained online at http://www.justice.gov/usao/dc/divisions/Laffey_Matrix_2003-2013.pdf.

11. Attached as Exhibit 10 both here and to the Plaintiffs' Response to Objections to Motion for Final Approval of Settlement and Fee Application is a true and correct copy of the Order Granting Temporary Stay of Action, C.M.D. v. Facebook, Inc., No. 12-1216-RS (May 20, 2013), ECF No. 147, granting a temporary stay of action.

12. Attached as Exhibit 11 both here and to the Plaintiffs' Response to Objections to Motion for Final Approval of Settlement and Fee Application is a true and correct copy of the Memorandum and Order, E.K.D. v. Facebook, Inc., No. 11-461-GPM,

supra, ECF No. 93 (thenceforth titled C.M.D. v. Facebook, Inc., No. 12-1216-RS, *supra*) transferring the E.K.D. case from the Southern District of Illinois to the Northern District of California.

13. I graduated from Santa Clara Law in 2007. While awaiting bar results after law school, I worked briefly in an administrative position at the Santa Clara Law High Tech Law Institute. Since that time, I have had no relationship with the Institute; I currently have no relationship with the Institute; and I have no expectation that I will return to the Institute or have any financial interest in the Institute at any time in the future.

14. The Arns Law Firm has received over 11,000 e-mails and over 4,700 phone calls from Class members in relation to this settlement. The Firm has responded to these e-mails and calls via either telephone or e-mail.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that if called upon to testify, I could verify the accuracy of the same. This document was executed on June 7, 2013 in San Francisco, California.


Kevin M. Osborne